IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.692 OF 2004
IN
NOTICE OF MOTION NO.2959 OF 2004
IN
SUIT NO.2913 OF 2004

Mr.Vidyasagar Sah .. Appellant.
V/s.
Survival Systems Ltd. & Ors. .. Respondents.

Mr.I.M. Chagla, Senior counsel with Mr.R.I. Chagla i/b. D.H. Law Associates for the appellant.
Mr.Chirag Balsara i/b. RMG Law for respondent No.1.
Mr.D.D. Madon with Ms.Garipathy i/b. Gagrat & Co. for respondent No.2.
Mr.S.A. Bhalwal i/b. Vyas & Bhalwal for respondent No.3.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 29TH OCTOBER, 2004.

P.C. :

Heard Mr.Iqbal Chhagla, the learned senior counsel for the appellant (original plaintiff) and Mr.D.D. Madon, the learned counsel for respondent No.2 (original defendant No.2).

2. The appeal is at the instance of the original plaintiff aggrieved by the order dated October 8, 2004. By that order the learned motion Judge adjourned the notice of motion for hearing; impliedly declined to grant any ad-interim relief.

3. In the affidavit-in-reply filed on behalf

of defendant No.2 opposing the ad-interim relief, the statement has been made that the apprehension of the plaintiff that the defendant No.2 will remit the amount receivable from the defendant No.3 (ONGC) to the defendant No.1 is absolutely misplaced and that the subject money is receivable by the defendant No.2 from the defendant No.3 (ONGC) belonging to defendant No.2 and there is no question of defendant No.2 remitting the same to the defendant No.1.

4. In our considered view, the interest of justice shall be subserved if the defendant No.2 files an undertaking before this Court within one week from today that the subject money receivable by the defendant No.2 from the defendant No.3 (ONGC) shall not be remitted to the defendant No.1. We order accordingly.

5. All contentions raised in the appeal are kept open to be agitated at the time of hearing of the notice of motion before the learned motion Judge.

6. Hearing of notice of motion is expedited.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)